

## Connecting to the Courts *Wisconsin Court System*

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### Volunteers in the Courts News

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#### Volunteers bring diverse perspectives to OLR committees

The more than 200 volunteers who serve on district committees around the state, assisting the Office of Lawyer Regulation (OLR) with certain investigations into possible attorney misconduct, are getting busier. OLR Director Keith L. Sellen is increasing the number of cases referred to the district committees so that each member will handle a minimum of one to two cases per year. Sellen hopes that handling more referrals will give the volunteers greater familiarity and comfort with the process, helping investigations run more smoothly.

Improving the process also means offering easier access to resources such as the American Bar Association Model Sanction Standards, and providing additional – and improved – training sessions. Sellen organized educational sessions for district committee volunteers at the State Bar Convention in Madison last May, and traveled to Milwaukee, Rice Lake, and Wausau to offer similar trainings. He is currently planning sessions for other communities to be held in the coming year.

Communication has also been increased between the court staff and the district committees. “More communication between the staff investigator and committee investigator helps clarify the issues and improve the timeliness and quality of our collective work,” Sellen said.

#### The system



*Newly appointed members of the Office of Lawyer Regulation's district committees met in Madison for training. Wisconsin is divided into 16 districts for purposes of lawyer regulation, and a committee composed of lawyers and non-lawyers serves each district. The committees assist in the investigation of certain cases, helping to give local input in the grievance process and to provide a more convenient, economical way for grievants and respondents to be heard. Training consists of presentations, a video, a walk through the process using a scenario, and problem-solving in small groups.*

There are 16 district committees around the state, and each, to the extent feasible, is composed of one-third non-lawyers. The lawyer-members bring a breadth of legal knowledge to the process while the non-lawyers - business executives, farmers, beauticians, realtors, retirees - bring their life experiences and their perspectives as consumers of legal services. The Supreme Court appoints the members after the Courts Appointment Selection Committee screens applicants.

The Supreme Court created the new lawyer regulation system in October 2000 to replace the Board of Attorneys Professional Responsibility (BAPR). The district committees were a component of BAPR that was left intact (with some modifications) to ensure continued local input into the grievance process and provide both complainants and respondents with a convenient, economical means of peer review.

District investigative committees meet upon the call of the chair. The committee in Milwaukee averages 10 meetings per year with each meeting lasting about an hour and a half. In smaller communities, the committees meet quarterly. An additional time commitment is necessary during the actual investigations, when committee members conduct interviews and perform research.

### **The process**

When a district committee receives an assignment, both the grievant and respondent are interviewed. Following this, investigators interview other necessary witnesses and collect other evidence that is relevant to the issues and necessary to determine the facts. Sometimes, this can take months to complete. When the investigation is finished, the case is discussed with the committee and a decision is made about whether an ethical violation occurred, and if so, what sanction might be appropriate. Many times during an investigation, complaints are withdrawn or issues are resolved.

Once the committee finalizes its findings, a copy of the report is given to the grievant and respondent attorney, who may respond to the report in writing. OLR staff reviews each report and any responses before determining how to resolve the grievance.

### **The people**

Members of the committees find the experience to be very rewarding. Shel Gendelman, a former director of the Military Police Criminal Investigation Detachment who is now semi-retired, has served on the District 2 committee in Milwaukee for a year and a half. Like many OLR volunteers, he is active on a number of fronts in his community. He is president of the Milwaukee Area Technical College Foundation Board, serves as a reading tutor in the Milwaukee Public Schools, and helps out as an arbitrator for the Better Business Bureau.

"I am very impressed with the thoroughness of the [OLR] investigations," he said. "And the professionalism." Gendelman is one of three non-attorneys on the

eight-person subcommittee. He finds that the mix of attorneys and non-attorneys produces insightful questions that he believes might not be brought if there were only attorneys on the committee.

Gendelman acknowledges that the attorneys do most of the research and he commends them for the time they commit and the seriousness with which they treat each case.

Atty. Paul Gagliardi has served on the committee in District 1 for more than 14 years and is currently the chair. He believes the volunteer service is worthwhile. "It keeps [lawyers] in touch with their code of conduct and how people feel about their lawyers," he said. He also agrees that having the non-lawyers on the committee is invaluable.

While Gagliardi has seen some changes since he started on the committee, the work has largely remained the same. One of the greatest challenges for the committees he said is "assuring the public that this way is objective" and the committee is "applying the rules."

*For additional information on the [OLR](#) visit the Website. Lawyers and non-lawyers interested in serving on a district committee should send a letter and resume to: [Cornelia Clark](#), clerk of the Supreme Court, PO Box 1688, Madison, WI 53701-1688, or fax to Clark's attention at: (608) 267-0640. Positions are filled on a continual basis and resumes will be kept on file for consideration for future opportunities.*

## **Litigants find solutions with help from law students**

"Truth," Oscar Wilde wrote, "is rarely pure and never simple." Had the playwright not died more than a century ago, he might have been commenting on the drama that unfolds on a typical Monday morning in Room 400 of the Milwaukee County Courthouse. It's small claims morning and, by 9 a.m., every seat in the cavernous courtroom is taken. Latecomers stand in a line that snakes out into the hall. Their cases, in the words of veteran mediator and former judge Gary Gerlach, "are much more difficult than business disputes involving millions of dollars." They pit brother

against sister, grandmother against granddaughter, colleague against colleague, friend against friend. They are all about money, but not really. Really, they are about broken promises, deceit, jealousy, embarrassment, revenge.



*Volunteer supervisor Gary Gerlach, a former Milwaukee County Circuit Court judge, congratulates Marquette law student Janet Dabney on successfully mediating her first case. Gerlach and Professor Janine P. Geske, the former Wisconsin Supreme Court justice who started the mediation clinic, gave Dabney tips on how to fine-tune her skills for future clinics.*

In a hallway just off the courtroom, Marquette Law School Distinguished Professor Janine P. Geske and her assistants – all volunteers who are trained mediators – give last-minute advice to the eight law students who are preparing to take center stage. Geske started the Small Claims Mediation Project in 1998, soon after leaving the Wisconsin Supreme Court. As a former Milwaukee County Circuit Court judge, Geske knows that some lessons are best taught by interaction with real litigants.

For three hours, the students mediate small claims matters that Court Commissioner George W. Greene screens and determines to be appropriate for mediation. The students work in pairs, one mediating and one observing, and reverse roles each week. Donating their time, trained professional mediators supervise the mediation sessions. After the concurrent sessions, the group meets to debrief.

The debriefing session reveals, at least on this day, a success rate of 100 percent. But, as Geske is quick to point out, that is not what really matters. What matters is the learning, and much of that occurs when the students share their stories with Geske, the professional mediators, and one another. One student tells of a tenant who was convinced that her landlord hung cobwebs and spread dirt in her apartment so he could keep her security deposit. Then there is the story of the family that wanted to honor their departed mother by having her smiling picture etched onto her headstone. When the result was too solemn looking, they complained – and the artist responded by adding Chicklet-like teeth to the image. They, too, reached an accord through the mediation project.

The morning wraps up with a discussion of issues such as whether mediators should nod, how they should position themselves in their chairs, and timing caucuses (private meetings with each side). The students leave the courthouse smiling as broadly as the litigants they helped. They have experienced what, for many seasoned lawyers, is the best part of the job: helping people solve their problems, reconcile, and move on.

### **Teen courts grow in popularity**

Judges are increasingly making use of creative options for dealing with teen offenders. In just three years, Wisconsin has more than doubled its teen courts, from 15 in 1999 to 32 in 2002, and a number of counties are looking at restorative justice programs as well (see separate story). Choosing the option that will work best for an individual offender, and for the victim and the families depends upon the personalities of those involved and on the circumstances of the case. *The Capital Times* in Madison recently featured some programs for teen offenders and talked to municipal judges about the pros and cons of each.

Teen courts take a number of different forms, but each harnesses the strength of peer pressure as a powerful deterrent. Teen courts generally serve first-time, non-violent offenders between the ages of 12 and 16 who are willing to plead guilty to the charge. The most common models are as follows:

**Adult Judge Model:** an adult judge rules on court procedure and clarifies legal terminology; teens volunteer as defense and prosecuting attorneys and jurors (may also serve as bailiff and clerk).

**Youth Judge Model:** similar to Adult Judge Model, but a teen serves as the judge.

**Tribunal Model:** teens serve as defense and prosecuting attorneys to present cases to panel of teen judges that determines the sentence.

But supporters of teen court say no matter which model is used, the key to deterring offenders is the creative sentencing that teen courts can offer. For example, a teen convicted of shoplifting may have to write a letter of apology to the store, perform community service, and pay back the merchant. Generally, the sentence also includes volunteering as a juror, lawyer, or judge in a future session of the teen court.

Another sentencing option is to have the offender agree to a contract with a judge until the offender reaches age 17. Judge Hamdy Ezalarab, Fitchburg Municipal Court, created a program in which he and other adults volunteer to work with a teen in a group effort to make the teen accountable for his/her actions. Requirements of the contract may include drug testing, community service, and improvement in school attendance or grades. Parents and a representative from the teen's school must also sign the contract. Many communities have not started teen courts because the volume of cases is too heavy or they lack resources. In the traditional court setting, judges have had success issuing sentences that include fines and community service blended with an in-court lecture. Judge Shelley J. Gaylord, Madison Municipal Court, pointed out that often enough the teen is simply not interested in doing more. But, she said, "if they show up, I have an opportunity to work with them".

*The Wisconsin court system Web site provides extensive information on [starting a teen court](#) and gives links to state and national teen court resources.*